

**Task Force on Immigration Consultant Fraud (HB 3525)**

**Sept 17, 2015**

**10:00am – 11:30am**

**Hearing Room A**

**900 Court St. NE**

**Salem, OR 97301**

**Minutes**

In attendance: Representative Vega Pederson, Bonnie Allen-Sailer, Stephanie Engelsman, John Haroldson, Amber Hollister, Aaron Knott, John Marandas, Judy Parker, Chanpone Sinlapasai-Okamura, Peter Threlkel

Excused Absence: Senator Gelser, Keith Bickford

Guest: Jessica Minifie, Legislative Counsel

**INFORMATIONAL**

- I. Call to order, Co-Chairs - Representative Vega Pederson called the meeting to order at 10:09am.
- II. Review of the agenda
- III. Review of minutes of Sept 2<sup>nd</sup> meeting – The Task Force approved the minutes.
- IV. Review of draft report - the Task Force carefully reviewed the draft report section by section and continued its discussion about proposed amendments to these statutes:

ORS 162.235 – Obstructing Governmental or Judicial Administration

ORS 164.075 – Theft by Extortion

ORS 194.315 – Qualifications of a Notary

ORS 194.340 – Grounds to Deny or Revoke a Notary Commission

Representing the Secretary of State, Mr. Peter Threlkel, Director of the Corporation Division, proposed further amendments to ORS 194.315 and ORS 194.340, specifically adding reference to ORS 646.608(1)(vvv), Additional unlawful business, trade practices, regarding unlawfully engaging in the business of, or acts in the capacity of, an immigration consultant in Oregon. ORS 646.608(1)(vvv) is appended to these minutes.

The Task Force supported the recommendation that the Secretary of State have the authority to permanently disqualify a person from receiving a notary commission and revoke a notary's commission if the person has admitted to or been found to have engaged in the unlawful trade practice of acting as an unauthorized immigration consultant, as provided in ORS 646.608(1)(vvv). If a person admits to or is found to have violated ORS

646.608(1)(vvv), he or she will be permanently disqualified from serving as an Oregon notary.

Mr. Threlkel noted that the SOS, the Oregon State Bar and the Department of Justice might pursue an action against a notario. Including ORS 9.160 and ORS 646.608(1)(vvv) as grounds for disqualification and revocation will conserve governmental resources by allowing agencies the opportunity to work collaboratively on enforcement issues. In addition, it will increase consumer protection by reducing harm caused by a notario who would otherwise rely on a notary commission to defraud Oregonians.

DA Haroldson and Ms. Parker suggested amendments to ORS 162.235, Obstructing governmental or judicial administration. These amendments cover the issue of criminal impersonation by other means.

The task force agreed to the following edits to the draft report:

Section I., A., Background: Notario Fraud in Oregon, pg 1

Include a recognition of Richard Ginsburg's work in the form of a footnote, as per Ms. Hollister's suggestion.

Section III., Meeting Summaries, pg 5

First sentence will be updated to include a brief account of the outcomes of the 9/17 meeting.

Section III., A., Options Discussed, pg 6

Include information about DA Haroldson's and Ms. Parker's proposal regarding amendments to ORS 162.325(2), Obstructing governmental and judicial administration.

Section IV., Task Force Recommendations, A., Amend ORS 164.075, pg 8

The 4<sup>th</sup> paragraph will be condensed to one sentence.

Section IV., Task Force Recommendations, B., Amend ORS 194.315, pg 8

ORS 194.315 to reference proposed amendments to ORS 162.325(2) Obstructing governmental or judicial administration (described below), and ORS 646.608(1)(vvv), Additional unlawful business, trade practices. Final wording of the amendments is still under consideration.

Section IV., Task Force Recommendations, B., Amend ORS 194.340 pg 8

To include reference to ORS 9.160 which serves as an umbrella for ORS 9.280; ORS 162.235(2) as amended; and ORS 646.608(1)(vvv), Additional unlawful business, trade practices. Final wording of the amendments is still under consideration.

Section V., Timeline/Next Steps, pg 9

Ms. Kramer will add information about the 9/17/15 Task Force meeting to this section.

Section VI., Proposed Amendments, A. ORS 164.075, pg 9

The proposed amendments to the Theft by Extortion statute were reviewed and an updated version reflecting these changes is appended to these minutes.

Section VI., B. ORS 194.315 Qualifications of a notary, pg 10

Add new sub(e): **(e) Not have been found to have engaged in the act of impersonating a notary as described in ORS 194.990 (1)(b) or ORS 162.325(2) as amended.**

Add new sub(g): **(g) Not have been found to have engaged in the unlawful capacity of an immigration consultant pursuant to ORS 9.280 or ORS 646.608(1)(vvv).**

ORS 646.608(1)(vvv) references the Unlawful trade practices act as it relates to notaries. Final wording of the amendments is still under consideration.

Section VI., C. ORS 194.340 Grounds to deny or revoke a notary commission, pg 11

Further revisions to Section 2: **(2) Upon receipt of a notice of a finding or admission of liability by the notary public that the notary public has violated ORS 9.160, ORS 9.280, ORS 162.235(2) as amended, 194.990 (1)(b), or ORS 646.608(1)(vvv), the Secretary of State may/will revoke the commission of the notary public.**

Final wording of the amendments is still under consideration.

Section VI., D. ORS 162.235 Obstructing governmental or judicial administration, pg 12

DA Haroldson and Ms. Parker suggested amendments to ORS 162.235, Obstructing governmental or judicial administration:

**(1) A person commits the crime of obstructing governmental or judicial administration if that person with intent to defraud engages in the business or acts in the capacity of a commissioned notary pursuant to ORS 194.205 et seq. without first being qualified to do by the Oregon Secretary of State; or**

**(2) A person commits the crime of obstructing governmental or judicial administration if that person with intent to defraud engages in the business or acts in the capacity of an immigration consultant in violation of ORS 9.280.**

Final wording of the amendments is still under consideration.

Sections of proposed amendments require additional fine tuning. Representative Vega Pederson will work with Legislative Counsel on the amendments to correctly capture the intentions of the task force. The proposed bill and amendments will be finalized by the submission deadline for the 78th Legislative Assembly.

## V. Next steps

Ms. Kramer will complete the final version of the task force report, with assistance from Ms. Hollister, by September 24<sup>th</sup> or 25<sup>th</sup> and send it to the task force members for their review. The final proposed amendments to the statutes will be as per the usual legislative mark-up (additions in **bold**, ~~strike through~~ for deletions). Representative Vega Pederson requested that the task force members email their most recent proposed changes to herself, Senator Gelsler and Ms. Kramer.

Representative Vega Pederson and Senator Gelser will review the final report and prepare their presentation to the Judiciary Committees on September 30<sup>th</sup>. They are both on the respective Judiciary Committees and will make the presentation. All task force members are invited to attend. After the presentation to the Judiciary Committees Representative Vega Pederson will work with Legislative Counsel on the amendments to correctly capture the intentions of the task force.

The Task Force's final report will be presented to the Senate and House Committees on Judiciary on September 30, 2015 by task force Co-Chairs Senator Gelser and Representative Vega Pederson. Task force Co-Chair Representative Jessica Vega Pederson will submit proposed legislation on behalf of the task force on increased protections for Oregonians victimized by notarios for the 78<sup>th</sup> Legislative Assembly.

No further task force meetings were scheduled.

Representative Vega Pederson thanked the members of the task force for their time, legal knowledge and expertise.

VI. Adjourn – Representative Vega Pederson adjourned the meeting at 11:33am.

Link to meeting documents: <http://www.oregon.gov/OAC/Pages/Task-Force-on-Immigration-Consultant-Fraud.aspx>

NOTE: The official record of this meeting is the audeo recording. If you would like a copy of this recording contact Nancy Kramer at [nancy.kramer@oregon.gov](mailto:nancy.kramer@oregon.gov).

## ORS 164.075 - Extortion

**164.075 Theft by Extortion.** (1) A person commits ~~theft by~~ extortion when the person compels or induces another to deliver **any property or services** to the person or to a third person, **or by preventing another person from reporting unlawful conduct**, by instilling in the other a fear that, if these ~~are property~~ not so delivered, the actor or a third person will in the future:

- (a) **Unlawfully** ~~C~~ause physical injury to some person;
  - (b) **Unlawfully** ~~C~~ause damage to property;
  - (c) Engage in other conduct constituting a crime;
  - (d) **Falsely** ~~A~~ccuse some person of a crime or cause criminal charges to be instituted against the person;
  - ~~(e) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule;~~
  - (e) Report his, her, or another person's immigration status or suspected immigration status;**
  - (f) Cause or continue a strike, boycott or other collective action injurious to some person's business, except that such conduct is not considered extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act;
  - (g) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;
  - (h) Use or abuse the position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or
  - ~~(i) Inflict any other harm that would not benefit the actor.~~
- (2) ~~Theft by~~ Extortion is a Class B felony. [1971 c.743 §127; 1987 c.158 §27; 2007 c.71 §48]

## ORS 646.608 - Additional unlawful business, trade practices

- (1) A person engages in an unlawful practice if in the course of the persons business, vocation or occupation the person does any of the following:
- (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as defined in ORS [9.280 \(Prohibition on acting as immigration consultant\)](#), in this state and for compensation, unless federal law authorizes the person to do so or unless the person is an active member of the Oregon State Bar.

## ORS 162.235 - Obstructing governmental or judicial administration

- (1) A person commits the crime of obstructing governmental or judicial administration if the person intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle; or**
- (2) A person commits the crime of obstructing governmental or judicial administration if that person with intent to defraud engages in the business or acts in the capacity**

**of a commissioned notary pursuant to ORS 194.205 et seq. without first being qualified to do by the Oregon Secretary of State; or**

- (3) A person commits the crime of obstructing governmental or judicial administration if that person with intent to defraud engages in the business or acts in the capacity of an immigration consultant in violation of 9.280.**
- (4) This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.
- (5) Obstructing governmental or judicial administration is a Class A misdemeanor.